

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1035**

Introduced by Louden, 49; Avery, 28.

Read first time January 17, 2008

Committee: Appropriations

A BILL

1 FOR AN ACT relating to highways and roads; to amend section  
2 39-1302, Revised Statutes Cumulative Supplement, 2006,  
3 and section 84-612, Revised Statutes Supplement, 2007; to  
4 create the Expressway Construction Fund and provide for  
5 its use; to designate the state expressway system; to  
6 transfer money from the Cash Reserve Fund; to harmonize  
7 provisions; to repeal the original sections; and to  
8 declare an emergency.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Expressway Construction Fund is created.  
2 The money in the fund shall be appropriated to the Department  
3 of Roads and shall be used to provide state matching funds for  
4 construction of portions of the state expressway system for which  
5 federal funds have been authorized. The fund shall consist of money  
6 transferred from the Cash Reserve Fund pursuant to section 84-612.  
7 Any money in the fund available for investment shall be invested  
8 by the state investment officer pursuant to the Nebraska Capital  
9 Expansion Act and the Nebraska State Funds Investment Act.

10           Sec. 2. The map entitled "NEBRASKA EXPRESSWAY SYSTEM" on  
11 page 53 of the 2006 State Highway Needs Assessment, prepared by the  
12 Department of Roads, and on file with the Clerk of the Legislature,  
13 is hereby adopted by the Legislature as the state expressway  
14 system. The adoption by reference of the map includes the roads  
15 designated as Original (Programmed), Planned (Not Programmed), and  
16 Planned (Programmed).

17           Sec. 3. Section 39-1302, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           39-1302 For purposes of sections 39-1301 to 39-1392  
20 and sections 1 and 2 of this act, unless the context otherwise  
21 requires:

22           (1) Abandon shall mean to reject all or part of the  
23 department's rights and responsibilities relating to all or part of  
24 a fragment, section, or route on the state highway system;

25           (2) Alley shall mean an established passageway for

1 vehicles and pedestrians affording a secondary means of access  
2 in the rear to properties abutting on a street or highway;

3 (3) Approach or exit road shall mean any highway or ramp  
4 designed and used solely for the purpose of providing ingress or  
5 egress to or from an interchange or rest area of a highway. An  
6 approach road shall begin at the point where it intersects with  
7 any highway not a part of the highway for which such approach road  
8 provides access and shall terminate at the point where it merges  
9 with an acceleration lane of a highway. An exit road shall begin at  
10 the point where it intersects with a deceleration lane of a highway  
11 and shall terminate at the point where it intersects any highway  
12 not a part of a highway from which the exit road provides egress;

13 (4) Arterial highway shall mean a highway primarily for  
14 through traffic, usually on a continuous route;

15 (5) Beltway shall mean the roads and streets not  
16 designated as a part of the state highway system and that are  
17 under the primary authority of a county or municipality, if  
18 the location of the beltway has been approved by (a) record of  
19 decision or finding of no significant impact by the federal highway  
20 administration and (b) the applicable local planning authority as a  
21 part of the comprehensive plan;

22 (6) Business shall mean any lawful activity conducted  
23 primarily for the purchase and resale, manufacture, processing,  
24 or marketing of products, commodities, or other personal property  
25 or for the sale of services to the public or by a nonprofit

1 corporation;

2 (7) Channel shall mean a natural or artificial  
3 watercourse;

4 (8) Commercial activity shall mean those activities  
5 generally recognized as commercial by zoning authorities in  
6 this state, and industrial activity shall mean those activities  
7 generally recognized as industrial by zoning authorities in this  
8 state, except that none of the following shall be considered  
9 commercial or industrial:

10 (a) Outdoor advertising structures;

11 (b) General agricultural, forestry, ranching, grazing,  
12 farming, and related activities, including wayside fresh produce  
13 stands;

14 (c) Activities normally or regularly in operation less  
15 than three months of the year;

16 (d) Activities conducted in a building principally used  
17 as a residence;

18 (e) Railroad tracks and minor sidings; and

19 (f) Activities more than six hundred sixty feet from the  
20 nearest edge of the right-of-way of the road or highway;

21 (9) Connecting link shall mean the roads, streets, and  
22 highways designated as part of the state highway system and which  
23 are within the corporate limits of any city or village in this  
24 state;

25 (10) Controlled-access facility shall mean a highway or

1 street especially designed for through traffic and over, from, or  
2 to which owners or occupants of abutting land or other persons  
3 have no right or easement or only a controlled right or easement  
4 of access, light, air, or view by reason of the fact that their  
5 property abuts upon such controlled-access facility or for any  
6 other reason. Such highways or streets may be freeways, or they may  
7 be parkways;

8 (11) Department shall mean the Department of Roads;

9 (12) Displaced person shall mean any individual, family,  
10 business, or farm operation which moves from real property acquired  
11 for state highway purposes or for a federal-aid highway;

12 (13) Easement shall mean a right acquired by public  
13 authority to use or control property for a designated highway  
14 purpose;

15 (14) Expressway shall mean a divided arterial highway for  
16 through traffic with full or partial control of access which may  
17 have grade separations at intersections;

18 (15) Family shall mean two or more persons living  
19 together in the same dwelling unit who are related to each  
20 other by blood, marriage, adoption, or legal guardianship;

21 (16) Farm operation shall mean any activity conducted  
22 primarily for the production of one or more agricultural products  
23 or commodities for sale and home use and customarily producing such  
24 products or commodities in sufficient quantity to be capable of  
25 contributing materially to the operator's support;

1           (17) Federal-aid primary roads shall mean roads, streets,  
2 and highways, whether a part of the state highway system, county  
3 road systems, or city streets, which have been designated as  
4 federal-aid primary roads by the department and approved by the  
5 United States Secretary of Transportation and shown on the maps  
6 provided for in section 39-1311;

7           (18) Freeway shall mean an expressway with full control  
8 of access;

9           (19) Frontage road shall mean a local street or road  
10 auxiliary to an arterial highway for service to abutting property  
11 and adjacent areas and for control of access;

12           (20) Full control of access shall mean that the right of  
13 owners or occupants of abutting land or other persons to access or  
14 view is fully controlled by public authority having jurisdiction  
15 and that such control is exercised to give preference to through  
16 traffic by providing access connections with selected public roads  
17 only and by prohibiting crossings or intersections at grade or  
18 direct private driveway connections;

19           (21) Grade separation shall mean a crossing of two  
20 highways at different levels;

21           (22) Highway shall mean a road or street, including the  
22 entire area within the right-of-way, which has been designated a  
23 part of the state highway system;

24           (23) Individual shall mean a person who is not a member  
25 of a family;

1           (24) Interchange shall mean a grade-separated  
2 intersection with one or more turning roadways for travel  
3 between any of the highways radiating from and forming part of such  
4 intersection;

5           (25) Map shall mean a drawing or other illustration or  
6 a series of drawings or illustrations which may be considered  
7 together to complete a representation;

8           (26) Mileage shall mean the aggregate distance in miles  
9 without counting double mileage where there are one-way or divided  
10 roads, streets, or highways;

11           (27) Parking lane shall mean an auxiliary lane primarily  
12 for the parking of vehicles;

13           (28) Parkway shall mean an arterial highway for  
14 noncommercial traffic, with full or partial control of access, and  
15 usually located within a park or a ribbon of park-like development;

16           (29) Relinquish shall mean to surrender all or part  
17 of the rights and responsibilities relating to all or part of  
18 a fragment, section, or route on the state highway system to  
19 a political or governmental subdivision or public corporation of  
20 Nebraska;

21           (30) Right of access shall mean the rights of ingress and  
22 egress to or from a road, street, or highway and the rights of  
23 owners or occupants of land abutting a road, street, or highway or  
24 other persons to a way or means of approach, light, air, or view;

25           (31) Right-of-way shall mean land, property, or interest

1 therein, usually in a strip, acquired for or devoted to a road,  
2 street, or highway;

3 (32) Road shall mean a public way for the purposes  
4 of vehicular travel, including the entire area within the  
5 right-of-way. A road designated as part of the state highway system  
6 may be called a highway, while a road in an urban area may be  
7 called a street;

8 (33) Roadside shall mean the area adjoining the outer  
9 edge of the roadway. Extensive areas between the roadways of a  
10 divided highway may also be considered roadside;

11 (34) Roadway shall mean the portion of a highway,  
12 including shoulders, for vehicular use;

13 (35) Separation structure shall mean that part of any  
14 bridge or road which is directly overhead of the roadway of any  
15 part of a highway;

16 (36) State expressway system shall mean the roads,  
17 streets, and highways shown on the map provided for in section  
18 2 of this act;

19 ~~(36)~~ (37) State highway purposes shall have the meaning  
20 set forth in subsection (2) of section 39-1320;

21 ~~(37)~~ (38) State highway system shall mean the roads,  
22 streets, and highways shown on the map provided for in section  
23 39-1311 as forming a group of highway transportation lines  
24 for which the department shall be the primary authority.  
25 The state highway system shall include, but not be limited

1 to, rights-of-way, connecting links, drainage facilities, and  
2 the bridges, appurtenances, easements, and structures used in  
3 conjunction with such roads, streets, and highways;

4 ~~(38)~~ (39) Street shall mean a public way for the purposes  
5 of vehicular travel in a city or village and shall include the  
6 entire area within the right-of-way;

7 ~~(39)~~ (40) Structure shall mean anything constructed or  
8 erected, the use of which requires permanent location on the ground  
9 or attachment to something having a permanent location;

10 ~~(40)~~ (41) Title shall mean the evidence of a person's  
11 right to property or the right itself;

12 ~~(41)~~ (42) Traveled way shall mean the portion of the  
13 roadway for the movement of vehicles, exclusive of shoulders and  
14 auxiliary lanes;

15 ~~(42)~~ (43) Unzoned commercial or industrial area for  
16 purposes of control of outdoor advertising shall mean all areas  
17 within six hundred sixty feet of the nearest edge of the  
18 right-of-way of the interstate and federal-aid primary systems  
19 which are not zoned by state or local law, regulation, or ordinance  
20 and on which there is located one or more permanent structures  
21 devoted to a business or industrial activity or on which a  
22 commercial or industrial activity is conducted, whether or not  
23 a permanent structure is located thereon, the area between such  
24 activity and the highway, and the area along the highway extending  
25 outward six hundred feet from and beyond each edge of such activity

1 and, in the case of the primary system, may include the unzoned  
2 lands on both sides of such road or highway to the extent of the  
3 same dimensions if those lands on the opposite side of the highway  
4 are not deemed scenic or having aesthetic value as determined by  
5 the department. In determining such an area, measurements shall  
6 be made from the furthest or outermost edges of the regularly  
7 used area of the commercial or industrial activity, structures,  
8 normal points of ingress and egress, parking lots, and storage and  
9 processing areas constituting an integral part of such commercial  
10 or industrial activity;

11 ~~(43)~~ (44) Visible, for purposes of section 39-1320, in  
12 reference to advertising signs, displays, or devices, shall mean  
13 the message or advertising content of such sign, display, or device  
14 is capable of being seen without visual aid by a person of normal  
15 visual acuity. A sign shall be considered visible even though the  
16 message or advertising content may be seen but not read;

17 ~~(44)~~ (45) Written instrument shall mean a deed or any  
18 other document that states a contract, agreement, gift, or transfer  
19 of property; and

20 ~~(45)~~ (46) Zoned commercial or industrial areas shall  
21 mean those areas within six hundred sixty feet of the nearest  
22 edge of the right-of-way of the Highway Beautification Control  
23 System defined in section 39-201.01, zoned by state or local zoning  
24 authorities for industrial or commercial activities.

25 Sec. 4. Section 84-612, Revised Statutes Supplement,

1 2007, is amended to read:

2           84-612 (1) There is hereby created within the state  
3 treasury a fund known as the Cash Reserve Fund which shall be under  
4 the direction of the State Treasurer. The fund shall only be used  
5 pursuant to this section.

6           (2) The State Treasurer shall transfer funds from the  
7 Cash Reserve Fund to the General Fund upon certification by the  
8 Director of Administrative Services that the current cash balance  
9 in the General Fund is inadequate to meet current obligations. Such  
10 certification shall include the dollar amount to be transferred.  
11 Any transfers made pursuant to this subsection shall be reversed  
12 upon notification by the Director of Administrative Services that  
13 sufficient funds are available.

14           (3) The State Treasurer, at the direction of the  
15 budget administrator of the budget division of the Department  
16 of Administrative Services, shall transfer such amounts not to  
17 exceed seven million seven hundred fifty-three thousand two hundred  
18 sixty-three dollars in total from the Cash Reserve Fund to the  
19 Nebraska Capital Construction Fund between July 1, 2003, and June  
20 30, 2007.

21           (4) The State Treasurer, at the direction of the budget  
22 administrator, shall transfer an amount equal to the total amount  
23 transferred pursuant to subsection (3) of this section from the  
24 General Fund to the Cash Reserve Fund on or before June 30, 2008.

25           (5) In addition to receiving transfers from other funds,

1 the Cash Reserve Fund shall receive federal funds received by the  
2 State of Nebraska for undesignated general government purposes,  
3 federal revenue sharing, or general fiscal relief of the state.

4 (6) On June 15, 2007, the State Treasurer shall transfer  
5 fifteen million six hundred seventy-four thousand one hundred seven  
6 dollars from the Cash Reserve Fund to the General Fund.

7 (7) On June 16, 2008, the State Treasurer shall transfer  
8 seventeen million nine hundred thirty-one thousand thirty dollars  
9 from the Cash Reserve Fund to the General Fund.

10 (8) On June 15, 2009, the State Treasurer shall transfer  
11 four million nine hundred ninety thousand five hundred five dollars  
12 from the Cash Reserve Fund to the General Fund.

13 (9) On or before June 16, 2008, the State Treasurer, at  
14 the direction of the budget administrator, shall transfer fifty  
15 million dollars from the Cash Reserve Fund to the General Fund.

16 (10) On or before June 16, 2009, the State Treasurer,  
17 at the direction of the budget administrator, shall transfer fifty  
18 million dollars from the Cash Reserve Fund to the General Fund.

19 (11) From the effective date of an endowment agreement  
20 as defined in subdivision (3)(c) of section 79-1101 until June  
21 30, 2007, forty million dollars of the Cash Reserve Fund shall be  
22 deemed to constitute the Early Childhood Education Endowment Fund.  
23 Such funds shall remain part of the Cash Reserve Fund for all  
24 purposes, except that the interest earned on such forty million  
25 dollars shall accrue as provided in section 84-613.

1           (12) The State Treasurer, at the direction of the budget  
2 administrator, shall transfer such amounts, as certified by the  
3 Director of Administrative Services, for employee health insurance  
4 claims and expenses, not to exceed twelve million dollars in total  
5 from the Cash Reserve Fund to the State Employees Insurance Fund  
6 between May 1, 2007, and June 30, 2011.

7           (13) On July 9, 2007, the State Treasurer shall transfer  
8 twelve million dollars from the Cash Reserve Fund to the Nebraska  
9 Capital Construction Fund.

10           (14) On July 9, 2007, the State Treasurer shall transfer  
11 five million dollars from the Cash Reserve Fund to the Job Training  
12 Cash Fund. The State Treasurer shall transfer from the Job Training  
13 Cash Fund to the Cash Reserve Fund such amounts as directed in  
14 section 81-1201.21.

15           (15) On July 7, 2008, the State Treasurer shall transfer  
16 five million dollars from the Cash Reserve Fund to the Job Training  
17 Cash Fund. The State Treasurer shall transfer from the Job Training  
18 Cash Fund to the Cash Reserve Fund such amounts as directed in  
19 section 81-1201.21.

20           (16) On or before August 1, 2007, the State Treasurer,  
21 at the direction of the budget administrator, shall transfer  
22 seventy-five million dollars from the Cash Reserve Fund to the  
23 Nebraska Capital Construction Fund.

24           (17) On or before June 30, 2009, the State Treasurer  
25 shall transfer nine million five hundred ninety thousand dollars

1 from the Cash Reserve Fund to the Nebraska Capital Construction  
2 Fund.

3 (18) The State Treasurer, at the direction of the budget  
4 administrator, shall transfer an amount equal to the total amount  
5 transferred pursuant to subsection (12) of this section from  
6 the appropriate health insurance accounts of the State Employees  
7 Insurance Fund in such amounts as certified by the Director of  
8 Administrative Services to the Cash Reserve Fund on or before June  
9 30, 2011.

10 (19) On July 9, 2007, the State Treasurer shall  
11 transfer one million dollars from the Cash Reserve Fund to the  
12 Microenterprise Development Cash Fund.

13 (20) On July 9, 2007, the State Treasurer shall transfer  
14 two hundred fifty thousand dollars from the Cash Reserve Fund to  
15 the Building Entrepreneurial Communities Cash Fund.

16 (21) On July 7, 2008, the State Treasurer shall  
17 transfer one million dollars from the Cash Reserve Fund to the  
18 Microenterprise Development Cash Fund.

19 (22) On July 7, 2008, the State Treasurer shall transfer  
20 two hundred fifty thousand dollars from the Cash Reserve Fund to  
21 the Building Entrepreneurial Communities Cash Fund.

22 (23) Within seven days after the effective date of this  
23 act, the State Treasurer shall transfer sixteen million dollars  
24 from the Cash Reserve Fund to the Expressway Construction Fund.

25 Sec. 5. Original section 39-1302, Revised Statutes

1 Cumulative Supplement, 2006, and section 84-612, Revised Statutes  
2 Supplement, 2007, are repealed.

3           Sec. 6. Since an emergency exists, this act takes effect  
4 when passed and approved according to law.